

**UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS**

**Docket # 05-10393 GAO**

Robert Pingaro,  
Plaintiff,

vs.

Town of Saugus,  
Defendant.

**MOTION TO DISMISS FOR LACK OF JURISDICTION AND  
FAILURE TO STATE A CLAIM UPON WHICH RELIEF MAY BE  
GRANTED**

Defendant Town of Saugus ("Saugus") hereby moves this Honorable Court, pursuant to Fed.R.Civ.P. 12(b)(1) and 12(b)(6), to dismiss this action for lack of subject matter jurisdiction and for failure to state a legal claim upon which relief may be granted. As grounds therefor, Saugus states that plaintiff has failed to assert jurisdiction over this matter under either 28 U.S.C. §1331 or §1332. Neither has plaintiff set forth a claim for relief that is actionable under either federal or state law. Accordingly, this action ought to be dismissed. As further grounds, Saugus relies upon its memorandum of law, annexed hereto and incorporated herein.

WHEREFORE, Defendant Town of Saugus respectfully requests this Honorable Court to enter an order dismissing this action with prejudice and an award of costs.

By its Attorney,

/s/ Ira H. Zaleznik  
Ira H. Zaleznik (BBO#538800)  
Lawson & Weitzen, LLP  
88 Black Falcon Avenue, Suite 345  
Boston, MA 02110  
(617) 439-4990

Dated: May 18, 2006

**CERTIFICATE OF SERVICE**

I, Ira H. Zaleznik, Esq., certify that this document filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF). Paper copies will be sent to those indicated as non-registered participants on May 18, 2006.

By its Attorney,

/s/ Ira H. Zaleznik  
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